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Written Submission to: 'Environment, Food and Rural Affairs Committee - Brexit: Trade in food inquiry'

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Written Submission to:

**'Environment, Food and Rural Affairs Committee
Brexit: Trade in food inquiry'**

Submitted by academics from Queen's University Belfast (Dobbs, McGowan, Gravey and Melo). Dr Mary Dobbs is a Lecturer in the School of Law, with expertise in Environmental Law and Genetically Modified Organisms. Prof Lee McGowan is Jean Monnet Chair and Professor in European Politics at Queen's University. His research centres on EU politics and policy making with special reference to devolution. Dr Billy Melo Araujo is a Lecturer in the School of Law, with expertise in EU Law and International Trade Law. Dr Viviane Gravey is a Lecturer in European Politics and is co-chair of the ESRC-funded Brexit & Environment network.

Executive Summary:

- The agri-food sector needs to be recognised as a key priority by the UK's negotiating team. Currently, there is significant interdependence between the UK and the rest of the EU and access to the EU market is extremely valuable. An agreement between the UK and the EU on agricultural trade that will maintain similar levels and ease of agri-food trade between the UK and the EU after Brexit is a must.
- The agri-food sector plays a very different role in the four nations of the UK, and the four nations have different attitudes towards farming – for example, their positions on genetically modified crops differ. Northern Ireland, for example, is a net exporter of agricultural goods. As such, this sector exemplifies the need for coordination and cooperation across the four nations in establishing post-Brexit policies (both domestic and external) that work for the whole of the UK. Yet current mechanisms for involving the devolved administrations appear to fall short – low frequency, lack of in-depth exchanges.
- Future UK trade policy should ensure that: 1) the quality of goods and services on the UK market is not negatively affected; 2) it allows long term planning and fosters, not hinders, the sustainability of UK; and 3) it accommodates diversity and works for the variety of agricultures in the UK. This may involve continued provision of long-term, 'green' subsidies that are compliant with international law. In doing so, the multifunctional nature of agricultural production should be borne in mind.
- Greater consultation of stakeholders is needed – both in each of the four nations and at UK level – to ascertain what different parts of the industry and consumers want. Brexit offers the opportunity to redraw agriculture and trade policy and this opportunity should be seized carefully.
- Farmers and food producers face great uncertainties and the negotiations about any new trade deal are going to be immensely complex and the agri-food and farming sector need to find a voice to articulate their concerns, their needs and desires for the future.
- It is still unclear what the exact nature of the UK/EU relationship will look like after the UK's withdrawal from the EU in 2019 (or shortly after if agreement can be secured on a transitional phase before the final exit). Any agreement with the EU will be hard fought, as the EU27 cannot afford to be generous to the UK.
- Failure to secure an agreement will mean that the UK would simply revert to trading with the EU under WTO rules that apply to third states. It should be noted that new free trade agreements cannot be secured with non-EU states until the UK has left the EU. There are certainly opportunities for the British agri-food sector outside the EU but how great are these?
- The UK government could negotiate to stay in the single market of the EU Customs Union – where little would change in relation to the UK's trade in agricultural goods, but this also implies adopting EU tariffs on goods coming into the UK from outside the EU, not having the power to sign new trade deals and having to make financial contributions to the EU budget.
- Under each of the alternative types of agreements between the EU and third states that are currently used and mooted, e.g. membership of the European Economic Area or a Swiss style FTA, agricultural trade is tightly controlled and no full access is guaranteed. Consequently, to protect and promote the UK agri-food sector will require a bespoke arrangement.
- Consequently, all need to prepare for the hardest Brexit possible, but also for softer versions. Industry must attempt to become more self-sufficient, whilst also continuing to comply with EU standards currently. The UK must attempt to develop advantageous agreements with the EU and third party countries in order to ensure appropriate sources of raw materials and also markets for different produce. Consideration must be given to whether uniform standards should apply in a binding fashion across the UK for all supply chains or whether differentiation should be facilitated and potentially supported in order to enable competitive access to different markets. Minimum

environmental, health and labour standards must be maintained for UK production, even if differentiation is adopted. Steps need to be taken to ensure adequate labour supplies for farming and long-term certainty over the availability of subsidies will be necessary.

1. What challenges and opportunities will the UK food and farming sectors face from new trade arrangements with EU countries after the UK leaves the European Union?

A. Status quo – pre-existing challenges and opportunities:

1. Currently, UK industry is heavily interconnected and interdependent with industry and markets in other EU Member States. Raw materials are imported into the UK, processed here and then consumed here or exported once more. The interconnectedness between the Ireland and Northern Ireland markets is a particular case in point. Similarly, raw materials produced in the UK are exported to other EU Member States, pre- or post-processing. In some areas, materials will cross the UK border numerous times prior to ending up on the consumer's plate. The EU currently facilitates this due to the free movement of goods in particular and industries have developed over the last 4 decades with this in mind. Dairy industry and the relationships between the Republic of Ireland and Northern Ireland are a prime example of this, but not unique. The variety of produce in shops and the reasonably low prices of oranges, dates and other produce not native to the UK demonstrate the impact for the consumer also.
2. The UK farming industry is also heavily dependent on migrant workers, throughout the year but especially during the summer (McGuinness and Garton Grimwood, 2017). Some 7% of the 2.2 million EU citizens working in the EU are employed in the agriculture, forestry and fisheries sectors (ONS, 2017). There are, according to a House of Commons Library Briefing Paper (2017) an estimated some 27,000 people from other EU Member States working in agriculture in 2016 with some 116,000 employed in the UK's food processing sector. It is also calculated that during the summer peak season this number can be swelled by an additional 75,000 people. The number of EU nationals coming to the UK has been declining since the Brexit vote and this is posing real issues for both the farming and food processing communities.¹
3. Further, UK farmers receive considerable subsidies under the Common Agricultural Policy (CAP), with their significance varying across the regions (European Commission, 2014; Torney, 2016). Subsidies play an important role for farmers, especially for smaller farmers and quality producers. For some farmers, these subsidies provide the majority of their income and enable their activities (Tonge, 2016). Thus, when direct subsidies were excluded from an evaluation of NI's farm incomes, only NI's pig industry had a positive 'Farm Business Income' in 2015/16 (DAERA, 2017a).
4. However, in order to produce food in the UK, EU standards and procedures apply. These are detailed and rigorous, including product standards, traceability, monitoring and sampling (e.g. MacMaoláin, 2007). These involve administrative costs and burdens – ones imposed on every farmer, retailer and distributor within the EU. Further, some of the CAP subsidies depend on the farmers' compliance with 'greening' requirements, the cost of which offsets some or even all of the potential benefit of those subsidies (DEFRA, 2013).
5. Whilst international law applies to the UK - including agricultural, trade and environmental law – this tends to be less specific, less onerous and without the same teeth as EU law (e.g. regarding environmental law, Reid, 2016). Consequently, access to non-EU markets poses relatively few extra burdens from the perspective of compliance with food safety. Although, import charges, transport costs and administrative costs accrue, the UK currently also benefits from tariffs negotiated by the EU under trade agreements with other countries.
6. Consequently, there are numerous, complicated interlinkages between the UK agri-food industry and the EU. Any form of Brexit will have considerable impacts upon the UK agri-food industry and makes it essential that the UK Government negotiate a suitable agreement - if feasible (Miller, 2016).

B. Different forms of new trade arrangements

7. It is important to note firstly that under Article 50 TEU, the EU and the other Member States are under no obligation to give the UK any advantageous deal or, indeed, any deal at all. There are good reasons

¹ Telegraph, 24 August 2017 <http://www.telegraph.co.uk/news/2017/08/24/brexodus-quicken-migration-uk-hits-lowest-level-three-years/>

to be tough on the UK (so as to deter other Member States from trying to pursue a similar trajectory), but ultimately any deal will be dependent on what works best for the EU²⁷. Unanimity is required for any subsequent trade deal. Any concessions will be hard won and will involve the UK making significant concessions itself (European Council, 2016) – these may well involve agreeing to the free movement of people, protecting the rights of EU citizens already in the UK, the application of EU standards or the control by the ECJ depending on what the UK seeks (Phinnemore, 2016).

8. The UK must reflect heavily on the significant eventuality that, if there is no unanimous agreement with the EU over the future legal relationship between the UK and the EU, then the default is a hard Brexit whereby the UK departs the EU without a deal. Such a scenario should be avoided at all costs. The UK government must keep pressing its case and if need be, push for an extension to the negotiations. Even extra time to negotiate further is contingent on unanimity. However, if the UK can negotiate successfully, potential options include: a very soft Brexit, by creating a Customs Union with the EU; obtaining membership of the European Economic Area (EEA) as per Norway for instance; securing a Free Trade Agreement similar to that of CETA or possibly, with Switzerland; and a sui generis or bespoke agreement tailored for the UK (UK Government, 2016; Phinnemore, 2016). The task was always going to be difficult and complex. There is also the need to take into account the views of the devolved nations. The UK government also needs to consider an ‘imaginative’ solution for Northern Ireland to ensure a ‘frictionless’ border and to prevent any ‘return to the borders of the past’.
9. In considering these possibilities, it should be borne in mind that producers/retailers are restricted as to what they can produce in light of land and climate in particular. They also are dependent on markets – both internal and external. Any changes to the relationship with the EU will impact upon the market and therefore the UK Government needs to consider what the impacts might be and either make it more cost efficient to deliver produce or be able to raise prices for produce whilst still ensuring that consumers purchase their produce (e.g. by delivering quality produce that consumers will purchase nonetheless or else by still being competitive relative to importers’ produce).

- *‘Softer’ Brexit: Approaching the Status Quo*

10. One option would be to negotiate for as soft a Brexit as possible, through for instance the creation of a new UK/EU customs union. This would allow the UK access to the internal market equivalent to the current access. Under this possibility, there would be no tariffs for trade between the EU and the UK. However, the UK would need to comply with EU criteria for products, including seeds, feed, labelling, chemicals used and so forth. The UK would also have to comply with other conditions, e.g. production methods, environmental protection and labour conditions. This would mean needing to keep abreast of all EU criteria/legislation and still involve high costs. The UK would continue to pay into EU funds and would also receive funding through various schemes (including CAP payments for farmers). Finally, the UK would continue to have to agree to jurisdiction of the CJEU in the case of any disputes or litigation. However, in contrast, the UK would lose its say in the creation of EU law and EU decision-making. Provided that the UK continues to be happy with the content of EU law, this might be the most attractive option for both industry and consumers in this field – however, it might prove politically unacceptable nationally and also on the EU level.
11. Attention has also been given to the possibility of going down the route of the EEA (à la Norway) or that of the FTA with Switzerland. For instance, membership of the EEA would enable the UK to remain a part of the single market, entailing the four freedoms, but CAP (and the Common Fisheries Policy) would not apply and nor would the Common External Tariffs. Relevant food, environmental and labour law would apply and the UK would be subject to the jurisdiction of the EFTA court. However, the UK would again not have an official voice in the creation of EU law even though it would be bound by future law. Production costs would remain high without the benefit of CAP subsidies or EU negotiated tariffs for external markets, but access to the EU markets without internal tariffs would be guaranteed – but not for agriculture and food produces, which are not covered in the EEA agreement. However, the UK would still need to provide information on the origin of goods and there would be customs controls between the UK and the rest of the EU – including between NI and the ROI. The idea of the UK joining the EEA is problematic for many as it requires signing up to the *acquis communautaire*, (e.g., the CETA does not eliminate all tariff lines and quotas on EU products entering Canada) making payments to the EU budget and leaves the UK fully outside the decision making process.

- *Hard Brexit: No Deal Brexit*

12. As mentioned, if the UK does not succeed in negotiating an agreement by the Article 50 TEU deadline, or if the negotiations break down, then the result will be a hard Brexit. A hard Brexit will mean that the UK will revert to WTO rules and legally be in the same position as any third party country relative to the

EU. Thereby, the UK will succeed in evading the legal force of the EU: the law will no longer apply directly and nor will the ECJ judgments be binding. This will lead to farmers having much greater flexibility as to input (e.g. GM seeds/feed), chemicals, environmental protection – whilst international law remains applicable, as noted, international environmental and health law does not impose such precise or onerous burdens and remains without effective enforcement mechanisms.

13. Leaving the without a deal presents the UK with a number of issues as the UK adjusts to a new relationship with the EU. The changes to the relationship would be significant and automatic. Firstly, CAP payments subsidising UK farmers will no longer be available. Secondly, restrictions on free movement of workers means agricultural labourers will likely find it more difficult to come in – generally criteria are imposed regarding visas, sponsors, salary and so forth. Thirdly, freedom of establishment for industry wishing to set up bases in other EU Member States would no longer exist for UK industry. Fourthly, UK products would need to comply with any criteria imposed by the EU – whether process or product related. They would also need to meet the relevant administrative burdens to establish compliance. On the other hand, the UK could impose conditions upon EU imports into the national market also.
14. Crucially, all products crossing the UK/EU border would need to pay taxes each and every time that they cross the border – even where various processing stages are in the two jurisdictions. The WTO default ‘most favoured nations’ rules will apply. The EU would then impose its Common External Tariffs on UK products, while the UK would apply its Most Favoured Nations (MFN) tariff to EU products. Levels of tariffs under WTO rules vary widely, but they are particularly high for meat and dairy, both key to Northern Irish agriculture. Thus Grant et al. (2016, p.33) explain this would mean a tariff of ‘12.8 per cent plus €1,713 per tonne’ for UK lamb exports to the EU and ‘€1,896 per tonne on Irish and Danish butter’ imported into the UK.
15. In addition to tariffs, the UK would also have to contend with EU tariff-rate quotas (TRQs). TRQs are measures that apply a relatively low tariff rate on imports that do not exceed a pre-determined quantitative threshold (in-quota tariff rate) and significantly increased tariff rates imports above the quantitative threshold (out-of-quota tariff rates). The EU currently has in place close to 100 TRQs, which are typically allocated among WTO Members that are considered as supplying countries. For example, EU maintains a (TRQ) regime for imports of 11,500 tonnes for high quality beef imported from Canada and the United States. The in-quota tariff rate is 20% while the out-of-quota tariff rate varies between 12.8% + 176.8 Euro/100kg to 12.8% + 303.4 Euro/100kg. If the UK were to leave the EU without a trade agreement in place, it would not automatically be entitled to a specific allocation share of the EU TRQs. In principle, the UK could reasonably claim that it is entitled to a share of the relevant EU TRQ in light of its substantial supplying interest. However, carving out the UK’s share of EU TRQs would be subject to time consuming and complex negotiations to the extent any reallocation of existing EU TRQs would inevitably lead to a reduction of the allocation of other WTO Members.
16. Currently, the UK benefits from preferential market access granted in the context of FTAs signed between the EU and third countries. There is uncertainty as to whether the EU can remain a fully-fledged party to such FTAs or whether it will have to negotiate new FTAs from scratch once it leaves the EU. Should the UK leave the EU and lose the benefit of preferential tariff treatment negotiated under EU FTAs it would have to face MFN tariffs applied by the signatories to these agreements on agricultural products. MFN tariffs on agricultural products can be quite significant. A recent study showed that the average applied tariff by developed, developing and least developed countries stood at 12%, 16% and 12% respectively (UNCTAD, 2014). The EU has successfully used FTAs to lower these tariffs for EU exporters. In the policy paper ‘Preparing for our future UK trade policy’ published by the UK Department of International Trade on 9 October 2017, the UK signalled its intent “to transition all existing EU FTAs and other EU preferential arrangements” (DIT, 2017). This indicates that the UK intends to “rollover” existing EU FTAs – that is, to sign new bilateral trade agreements with the EU’s current FTA partners under the same terms. It is however, highly unlikely that the UK will be able to transition all current EU trade agreements in the short to medium term. Firstly, because the EU currently has in place more than 50 trade agreements and it is questionable whether the UK currently has the capacity to renegotiate all such agreements simultaneously whilst also negotiating its trading relationship with the EU. Secondly, the countries with whom the UK will be negotiating may consider that market access concessions granted in EU FTAs would need to be revisited in the context of bilateral negotiations with the UK to the extent that the UK represents a much smaller market than the single market. Thirdly, third countries may opt to refrain from engaging in substantial negotiations until the UK’s trading relationship with the EU is settled (Holmes and Gasiorrek, 2017). For these reasons, it seems fairly likely that UK will not be able to maintain the status quo in terms of preferential market access granted under EU FTAs and that it will have to contend with MFN tariffs on trade with a number of countries covered by such FTAs.

17. The exact impact on the agri-food industry of a hard Brexit would depend on the specific type of farming involved and whether the UK is a net importer/exporter (Davis et al, 2017). However, overall this would risk an economic disadvantage for UK farmers exporting and lead to higher prices and less choice for consumers. If subsidies (replacing CAP payments) were not retained and guaranteed for several years at a time in order to provide certainty for farmers, this would make farming unviable for small farmers and also put domestic farmers at an economic disadvantage to EU importers (even with importers paying import tariffs).
18. This would also leave EU importers who still seek to access the UK market facing import charges and restrictions. This might be less financially advantageous to them and some reductions in importation might be seen. This would lead to less choice and higher prices for consumers. Domestic producers might have a competitive advantage on the domestic market, as they would not face charges. However, this would depend on whether they could keep prices low.
19. In order to reduce costs for UK producers and facilitate retailers in continued profitable enterprises, standards and administrative burdens could be reduced. International law poses minimal standards, which could be complied with at lower costs (although some are related to practices that are part of daily UK farming practices now and therefore could be considered sunk costs). This could be achieved through for instance using cheaper, non-EU certified chemicals, using more chemicals in food production to achieve higher yields or kill pests, reducing testing or tracing, using GM-feed that is not EU authorised (as most feed is imported and this would significantly lessen costs in ensuring no admixture, e.g. soya beans from Brazil). Some of these changes are directly related to the product and some are more environmentally focussed. Whilst some standards will need to be maintained in order to access external markets, many non-EU markets (including the US) do not impose the same criteria regarding for instance GM-feed in milk or beef production and therefore costs could be reduced to an extent (European Commission, 2011).
20. As the EU might prohibit access to the market if this approach were taken, the UK and industry would need to reflect on whether the reduced costs and income from non-EU markets were sufficient to balance out with the loss of the EU market, potential harm to the environment and society, and the difficulties in justifying any domestic subsidies (see below) as a result.
21. One possibility might be to lower the standards, but facilitate industry in meeting EU standards and indeed subsidies could be tailored to the EU standards (akin to organic or free-range produce). In order to provide further choices to consumers and keep food affordable, the UK could also reduce or adapt standards in order to facilitate imports of finished produce, e.g. US beef fed/treated with hormones or chickens washed in chlorine. Thereby separate markets could have different supply chains: domestic, EU and non-EU standard markets. This would prove very challenging practically (as it would be very costly, and require inspections to ensure both supply chains remain separate) but is possible and would enable low-cost choices domestically whilst enabling industry to access both EU and non-EU standard markets. Nevertheless, establishing separate supply chains, with the UK domestic market receiving goods of lesser quality than the EU market may be politically difficult – going against Theresa May's declaration in Florence that "People in Britain do not want shoddy goods, shoddy services, a poor environment or exploitative working practices and I can never imagine them thinking those things to be acceptable".
22. For instance, genetically modified organisms highlight the challenges and opportunities: GM crops, food and feed have traditionally proven highly controversial in the EU. The UK could facilitate these domestically – authorising ones that are sometimes stalled in the EU procedures. Clearly, this is a complicated and contentious topic, which deserves more investigation and no judgment is made here upon the desirability of GMOs. However, the key points for this submission are: (i) the UK could authorise these without the GMOs having been authorised at the EU level; (ii) if any non-EU-authorised GMOs are present in an ultimate product, it cannot be marketed in the EU; (iii) it would be feasible to have GM feed imported at cheaper rates and used in one supply chain, whilst maintaining the current controls, checks and tests for supply chains targeted at the EU market; (iv) the existing traceability rules could help ensure that any animals or produce entering the EU complied with EU law and the UK could take on the burden of ensuring compliance; (v) admixture is less likely in the context of feed than in the context of GM crops, where coexistence in the long run is not feasible which makes non-EU-authorised GM crops a significant threat to trade with the EU. Therefore, from an economic perspective, facilitating non-EU-authorised GM feed might be desirable whilst non-EU-authorised GM crops might risk the EU market too much. On the other hand, exiting the EU provides the UK with the freedom to restrict GMOs

further if so desired, provided that the UK complies with international law – specifically GATT, the SPS Agreement and the TBT Agreement.

23. With regards to GM policy, both relations with the EU and relations between the UK's four nations need to be considered. Currently, Northern Ireland, Scotland and Wales have opted out of EU regulation allowing cultivation of EU-authorized GMOs, whereas England has not (Grant et al. 2016). A change of policy at UK level towards greater ease to cultivate and sell GMOs would thus go against the clearly stated views of the devolved administrations. In the context of GM crops, it would also make the regional approaches more challenging practically due to the difficulties in ensuring coexistence in the long run between GM and non-GM crops (Dobbs, 2015).
 24. In the case of a hard Brexit, whether involving a complete rupture or some form of trade agreement that doesn't encompass free movement of workers, it is still open to the UK to facilitate easier access for certain types of necessary workers. This would be especially important in the context of summer labour in agriculture as noted above. Whilst this might be politically sensitive nationally, the UK Government could achieve this unilaterally, under for instance a Seasonal Agricultural Workers Scheme as has previously existed (McGuinness and Garton Grimwood, 2017; and Environment, Food and Rural Affairs Committee, 2017). Alternatives, such as financially incentivising those who are unemployed to undertake the labour instead, might be feasible and should be considered, but would still be insufficient for current levels of agricultural production (Environment, Food and Rural Affairs Committee, 2017).
 25. As mentioned, it is open to the UK to continue with subsidies. Although previously the UK Government has indicated an aversion to continuing on with subsidies (Environment, Food and Rural Affairs Committee, 2007), more recently there have been indication that these would continue for some time (e.g. Harrabin, 2017). This will be necessary for some farmers to survive. Further, CAP currently provides longterm certainty (EU 7 year financial plans), which is crucial for farmers planning their activities. Any UK subsidies would similarly need to be outlined clearly for long periods, well in advance.
 26. However, the UK cannot provide any subsidies they wish without limitation. The WTO imposes restrictions on market distorting subsidies. The UK currently is permitted some under the EU allocation, but this will change with Brexit and there is no clarity or certainty regarding what level the UK will be allowed. Further, the GATT applies under WTO law to the UK. There are limited justifications for subsidising national agricultural food production and economics reasons are not acceptable. However, one potential option is that of environmental protection and conservation. Essentially, this would involve the creation of a green British Agricultural Policy (BAP) that linked payments to environmental criteria, although WTO rules also apply to environmental payments.
- *Historical forms of TAs*
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27. Beyond customs unions and the EEA, Phinnemore (2016) has also noted the possibility of an agreement along the lines of that of the EU with Turkey or Canada. Akin to the agreement with Turkey, the UK could also be part of the customs union (giving up some power for no customs controls, EU external tariffs and ease of access) – but the agreement with Turkey similarly excludes agricultural goods currently and also has restrictions on free movement of persons. The agreement with Canada also provides market access, but restrictions apply regarding agricultural trade (e.g., the CETA does not eliminate all tariff lines and quotas on EU products entering Canada) and customs controls.
 28. Notably, under each of the types of agreements currently used and mooted, agricultural trade is one element that is tightly controlled and no full access is guaranteed.
 29. The Deep and Comprehensive Free Trade Area, part of the EU's Association Agreement with the Ukraine provides another possible example for a new EU/UK relationship (CepADHOC, 2017). This is another unique agreement and brings all the advantages of associate membership to the Ukraine but skilfully avoids any talk of the Ukraine becoming a member of the EU. From the UK's position this agreement is interesting as it allows the Ukraine substantial single market access but without any reference to the jurisdiction of EU law and the European Court of Justice. It also does not insist on the EU's free movement of people, goods, services and capital and the agreement allows the Ukraine to establish its own trade deals with non-EU states.
 30. The EU/Ukrainian agreement could be a basis for a new UK/EU accord. The agreement lowers tariffs on imports considerably. Indeed, Ukrainian agriculture will benefit most here with cuts in duties.

31. The UK would want to ensure access to the market and especially in financial services, but would be expected to make contributions to the EU budget and possibly, other policies such as the EU's European Security and Defence Policy.

- *Sui generis/bespoke agreements:*

32. Other options highlighted have included the possibility of bespoke agreements – going beyond mere tweaks of the historical forms of TAs. This could be a cross between a hard and soft Brexit, whereby access is limited to certain goods/services and only some aspects of EU law apply. For instance, it might be possible for the UK to negotiate an agreement involving no tariffs and access for goods provided that product standards, production methods, environmental protection and labour conditions were complied with, along with the jurisdiction of the ECJ in these matters. However, whilst technically possible and potentially advantageous, this would be hard fought and the UK would need to make significant concessions in order for the EU to consider it sufficiently attractive – especially in light of Donald Tusk's rejection of potential 'cherry-pick[ing]' (Tusk, 2016). Again, the desire not to offer too good a hand to the UK as harmful to the EU as a whole will play a role here.
33. It might be possible to nonetheless negotiate bespoke agreements for specific regions, such as NI and Scotland considering that they voted to remain. In particular, various justifications can be raised regarding NI, including the land border with the Republic of Ireland, the heavy interconnectedness and interdependence of agriculture and trade, and the history of the Troubles (Tonge, 2016).
34. Such a bespoke agreement could deal with all trade issues, with Phinnemore (2016) discussing the possibility of NI remaining in the EU, whether via a form of 'reverse Greenland' or otherwise, whilst the rest of the UK exits. Alternatively a soft Brexit with full membership of the customs union but without any voting rights might be an option for NI, with a hard(er) Brexit for the rest of the UK. Beyond the myriad of political problems, this would also raise the practical issue of whether Westminster or Stormont would pay into any EU fund due to financing challenges.
35. However, a bespoke agreement could also be targeted in light of the significance of agriculture and the food industry for NI (Allen, 2016) and in light of how often dairy, farm labourers and dairy products cross the border during year – with milk produced in ROI and NI at different times of the year. Indeed, there have been suggestions of using the label of 'Irish milk' by ICOS in February 2017 (Donnelly, 2017).
36. It would be possible to negotiate a permanent or an interim agreement regarding milk in light of interdependence between Ireland and NI of milk. However, whilst there are good reasons for both the ROI and NI to have such an approach, this would raise issues about where any border should be, where any tariffs should be raised, potential discrimination against other EU Member States and other UK regions, and also is reliant upon unanimous agreement by the other Member States. The last point might be overcome on the basis of the potential harm to ROI and the potential strife caused by the re-introduction of a hard border on the island of Ireland. However, even if permitted, this would still require that those involved in the supply chain at all stages comply with EU criteria irrespective of their geographical location – this would increase costs and administrative burdens for these producers and still leave them at a competitive disadvantage compared to other UK/EU producers.

2. What trade policy objectives should Defra/ the UK Government establish in order to achieve the right balance between the interests of food consumers, producers and processors, and the environment?

37. Trade policy objectives will need to strike a balance both within the agriculture and food sector (consumers, producers, processors, the environment, animal welfare etc.) and between the interests of that sector and different sectors (notably manufacturing, services etc.).
38. What balance is considered 'right' is highly dependent on who decides (an overall trade portfolio or a specialised agriculture and food portfolio) and where (centrally or in the devolved administrations). The status quo within the EU is to have policy on agriculture, environment and overall trade objectives all decided at EU level. Brexit, and the repatriation of powers to a variety of levels of governance, opens the possibility for policy divergence within the UK across a variety of policy areas (environment, agriculture notably) (Reid, 2016), which will make achieving a balance of trade policy objectives that is right in all four nations complex.

39. This problem is compounded by the fact that the importance of food producers and processors for the local economy (DAERA, 2017b), and the importance given by citizens to the environment is different across the UK (Barry, 2009) – trade policy objectives which appear to strike a right balance in one part of the UK could fail to do so in another.
40. This complexity and diversity across the UK stresses the need for trade policy objectives which deliver the following three principles: 1) No 'shoddy goods' – as declared by the PM in her Florence Speech, citizens did not vote for 'shoddy goods and services', trade policy should make sure the quality of goods and services on the UK market is not negatively affected. 2) Planning for the long term – making food production in the UK sustainable (socially, economically and environmentally – notably by delivering a 'green Brexit'). 3) Accommodating diversity – no 'one size fits all' agricultural model in the UK, yet trade policy will be common. Additional policy (including subsidies) will likely be needed to offset the adverse effect of this common trade policy on specific types of farming which deliver public goods. In doing so, it is crucial to recognise the multifunctional nature of agriculture – it is not merely serving food needs and the economy, but also plays for instance significant societal, cultural and environmental roles (Romstad, 2000; Knox, 2012; and European Council, 2006).
41. It is also worthwhile noting that sustainable development and sustainable agriculture are part of the internationally agreed Sustainable Development Goals (UN, 2015). Sustainability is essential to the longevity of any national objectives, including that of food security (FAO, 2009), and hence the importance of the 'green Brexit'. This is essential even whilst acknowledging the need for securing high yields, as reflected in the concept of sustainable intensification (Royal Society, 2009). Being seen as environmentally friendly can also increase the value of consumer products.

3. How effective are the Government's arrangements for consulting the food and farming sector and for representing their interests within the UK's negotiations with the EU?

42. The significance of the agri-food sector to the health of the Northern Ireland economy cannot be understated. It has been estimated (NIFDA, 2010) that some 19,000 people are employed directly in the agri-food sector in this part of the UK. However, there are another 30,000 employed in primary production and a further 43,000 people whose jobs are indirectly linked to agri-food in the transport, packaging and engineering sectors. It has an almost unique status and disruptions to livelihoods and the overall economy need to be minimised as far as possible. Central to discussions are also concerns over the future nature of the border between Northern Ireland and the Republic of Ireland.
43. There exists a considerable all-island agricultural economy on the island of Ireland. Northern Ireland already imports considerable numbers of pigs and cattle from the Irish Republic. It is estimated that 25% of Northern Irish milk and some 35% of Northern Irish lamb is processed in the Irish Republic. The government needs to talk to the relevant producers to understand positions. DAERA is attempting to do this on a regional level, via stakeholder meetings, but this needs to be done on a grander scale by the UK Government also.²
44. In the absence of a devolved Assembly in Northern Ireland, it is imperative that the UK government (through both the Northern Ireland Office and the Department for Exiting the EU) fully engage with and appreciate the peculiarities and uniqueness of the situation in Northern Ireland.
45. Things that require strong consideration include: Securing a trade deal with the EU that recognises the issue of the Irish border. Well-meaning statements need to be translated into facts. To this end it is imperative that the UK government fully understands and appreciates the unique status of the land border and the twin needs of maintaining economic and political stability in the immediate border region and across the island. Maintaining the free movement of goods across this island must be an imperative and efforts to prevent and at least minimise disruption are essential.
46. If it is impossible to secure a deal then the UK government needs to be ready to assist the Northern Ireland agricultural and agri-food sectors by supporting reinvestment and facilitating access to both EU markets (though possibly quotas) and non-EU markets.
47. While a majority of farmers in Northern Ireland voted for Brexit (estimated at 60% according to the Ulster Farmers Union), it is becoming ever clearer that the issues facing agriculture in this part of the UK are considerable (Tonge, 2016; and Stennett, 2016). The Ulster Farmer's Union has been in

² <https://www.daera-ni.gov.uk/news/update-brexite>

contact with the Prime Minister over their concerns about future funding streams (outside the EU) and access to workers from the EU. The UFU needs to have its voice heard.

48. The DUP have long supported the needs of farmers (many of their own electorate) and through their current arrangement with the government need to insist on making agriculture a priority.
49. The current situation risks an uneven weighting of voices. Without a centralised mechanism for hearing the various voices, there risks being a filtering of voices en route to the UK government. Some voices, such as those of the NFU and the DUP will be heard more easily than others – including those in Scotland or Wales or of smaller farmers. There is a risk of regulatory capture by those with strongest voices. The government needs to consult, but also to be aware of other considerations and voices that are not heard.
50. Is there a need for a single agricultural market across the island of Ireland that would see Northern Ireland maintain EU laws to allow its goods into both the UK and EU markets, or is such an idea politically problematic?

4. How effective are the Government's arrangements for representing the interests of the four nations within the UK's negotiations for trade in food?

51. As the UK develops its own trade policy it is important to ensure that cooperative frameworks are established to enable devolved regions to influence such policy. Firstly, because trade policy and trade agreements increasingly address a number of areas that fall within the competence of devolved administrations. This is certainly the case of the farming and agricultural sector. Rules negotiated on issues such as agricultural subsidies and food standards, for example, will have to be implemented at the devolved level. Some level of cooperation is desirable in order to avoid conflicts between the central government and devolved administration as regards the implementation of international obligations resulting from trade agreements. Secondly, the economic profile of devolved regions can be quite different from that of the United Kingdom as a whole. For example, whilst services account for close to 80% of the UK economy, goods still account for the vast majority of exports from Northern Ireland (Mac Flynn, 2016). The offensive and defensive trade interests of Northern Ireland are therefore significantly different to those of the rest of the UK. In lights of this, it is crucial that devolved administrations like Northern Ireland are able to put forward their views and interests to ensure that UK trade policy reflects and protects their economic interests.
52. To achieve this it may be worth borrowing from the Canadian model. Canada is a federal state subdivided into provinces whose powers overlap significantly with areas typically addressed by trade policy. Because the provinces are under no obligation to implement international commitments undertaken by the federal government, an institutionalised form of cooperation between central governments and provinces was set up to ensure that the latter were fully involved in the process of negotiating Canada's FTAs. Such cooperation takes place in the framework of the Federal-Provincial territorial Trade Committee (C-Trade), which includes representatives of the federal government and provinces and meets on a quarterly basis to discuss trade policy issues. A similar institutionalised cooperation mechanism between central government and devolved administrations would be worth exploring in the United Kingdom.
53. Overall, the current arrangements by the UK Government enable for the regions to be informed of developments and to feed into the UK Government's policies and negotiations, but the force and role of such input is questionable. Although agricultural and environmental powers are devolved to the regions currently, this is impacted upon by the overlap with trade (centralised) and also the relationship with the EU currently (one voice of the Member State). This tension is emphasized in the context of the Brexit negotiations, which heightens the role of the UK as a Member State. Historically, the UK as a whole has concentrated on agricultural interests that are more relevant to England and, to a limited extent, Wales. Carwyn Jones states in 2015: "I have dealt with Defra and its impression of farming is large arable farms, large units. It does not really get, for example, sheep farming, and that has been true regardless of the party running the department."³ The same theme could be extended to Northern Ireland where Northern Irish farms resemble much more the structure of the farming sector in the rest of the island of Ireland than those in the larger island of Great Britain.

³ <http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/european-union-committee/visions-of-eu-reform/oral/23576.pdf>

54. The Prime Minister has stated that the government is working on a single British position. This has raised questions in the devolved administrations about their ability to be heard and their ability to influence the British position. Doubts have been expressed in Cardiff and Edinburgh and by the leaders of both the Scottish and Welsh Executives about how to advance their interests.
55. The Joint Ministerial Committees (on Europe and the Negotiations) provide the formal mechanisms for the devolved administrations to represent their views to the government. Meetings of the former have been sporadic (8 months between the last two meetings) and there is a growing sense that the meetings represent more of a symbolic nature than a substantial vehicle to influence government. This was made more problematic for NI by the lack of a working government and thus meetings are attended by civil servants rather than by government representatives. It is noticeable that the nations consider that their interests are not being sufficiently represented, and are making attempts to bypass the UK government and going to ROI or the EU directly instead to set out their concerns.
56. However, it should be noted that NI's voice appears to be being heard more in recent times – perhaps due to the role of the DUP in supporting the UK government. Civil servants from Northern Ireland are working alongside their counterparts in both Cardiff and Edinburgh on agricultural issues in the search and development of Common frameworks. Some degree of influence of NI – whether via the UK government or via other Member States and the EU's institutions - can be seen in continuing discussions over the Belfast Peace Agreement and the potential of a hard border between the ROI and NI or indeed NI and the rest of the UK. Thus, the third of three principles of the Joint Ministerial Committee on EU Negotiations refers to the particular position of Northern Ireland (Joint Ministerial Committee (EU Negotiations), 2017). However, whilst valuable and important and indeed NI's position is 'unique' (NI Executive Office, 2016), this is somewhat problematic, as some NI voices and other regions still do not appear to be being heard.
57. Currently, the official focus in NI is more on intensification, although sustainability is frequently mentioned (Agri-Food Strategy Board, 2013). However, on-going academic research with stakeholders in relation to food production has highlighted that farmers are increasingly keen on developing a green marketing strategy and that other stakeholders wish to integrate broader societal issues such as food poverty, health and food quality (Foord, 2016).

5. What can farmers, food producers and processors, and government do to prepare for changes to trading arrangements, including to improve production and to reduce trading costs?

58. Long-term, it may become necessary for producers and retailers to become less reliant upon imports and processing outside of the UK – this will be important if there is a hard Brexit, in light of the interconnectedness of the supply chain currently. This may involve greater diversification of agriculture, whilst still ensuring sustainable intensification. It may also involve investing in developing requisite, skills, facilities and labour to enable all steps of the supply chain to be completed within the UK, for instance as LacPatrick has recently taken steps towards in NI dairy production (Kelpie, 2017). This could assist the UK to become more self-sufficient.
59. Until the UK exits the EU, the EU market remains crucial to the UK and EU law continues to apply. Even with a hard Brexit, if UK producers wish to continue to access the EU market at all then they will have to comply with relevant standards for products, labelling and potentially production (as above). Consequently, UK producers/retailers should aim to maintain standards for production and products, complying with EU measures, even where they cease to be legally binding. They will need to ensure that they have appropriate documentation (even this will increase costs) to evidence their compliance. The UK government should aim to replicate EU standards and approaches, unless there is very good reason to do otherwise – as the UK is unlikely to wish to abandon high standards entirely, the added costs to meet EU standards are worthwhile in facilitating access to the EU market.
60. The UK government will need to ensure adequate funding and support of independent research into all aspects of food production, including forms of novel food, plant protection products and processing techniques – this is especially the case in light of the gap created by the potential loss of access to networks and especially the European Food Safety Authority post Brexit.
61. Producers and the government may wish to see about the feasibility of segregating production lines, not merely from the perspective of intensive, high yield and lower cost produce on the one hand and more costly 'quality' produce on the other hand, but also in separating production lines that are compliant with EU standards and ones that are not, e.g. produce for export to the EU versus produce

for domestic consumption or for export to other markets. Thus, it might be that some farmers could use non-EU authorised GM feed for their cattle. But will UK consumers accept this lowering of standards?

62. Transitional measures following the eventual Brexit will most likely be necessary. Whilst this is dependent once more on unanimity by the Member States, this may be more politically acceptable to them as supportive of their own producers/retailers also and ensuring a relatively smooth transition. For this to be acceptable and effective, key steps and a clear timeline would need to be identified that would help ensure the establishment of the new relationship being aimed at by the end of the transitional period - whether a clean break of the interdependency or one that is mutually supportive in a different form as outlined above.

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